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## Proposed Regulation Agency Background Document

<b>Agency name</b>	Department of Environmental Quality
<b>Virginia Administrative Code (VAC) citation</b>	9 VAC 25 -91
<b>Regulation title</b>	Facility and Aboveground Storage Tank (AST) Regulation
<b>Action title</b>	Amend to incorporate requirements of Chapter 884 of the 2011 Acts of Assembly and clarify existing regulatory language.
<b>Date this document prepared</b>	May 23, 2012

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.*

The regulations are being revised to incorporate new performance standards for certain aboveground storage tanks (ASTs) located in the City of Fairfax as mandated by actions taken by the 2011 General Assembly (CH 884). In addition to these changes, the regulations are being revised to clarify the applicability of the regulations and remove the requirement for registration fees to be paid. The pollution prevention requirement section of the regulation (Section 130) has also been re-organized to make the regulations easier to understand.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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Section 62.1-44.34:15.1 of the Code of Virginia directs the State Water Control Board to adopt regulations concerning aboveground storage tanks. The statute specifically directs the board to adopt regulations with different regulatory requirements based on the aggregate capacity of the tanks.

Section 62.1-44.34:19.1 of the Code of Virginia requires the Board to develop an inventory of facilities with an aboveground storage capacity of more than 1320 gallons of oil or individual aboveground storage tanks having a storage capacity of more than 660 gallons of oil. The Board is authorized by statute to develop regulations concerning the registration of these tanks.

Section 62.1-44.34:15 of the Code of Virginia requires facilities to provide an Oil Discharge Contingency Plan to the Department for approval. These plans detail actions that will be taken by the operator in the event an oil spill occurs.

There is no direct mandate for aboveground storage tank regulations in federal law; however, federal regulations such as 40 CFR Part 112 (Oil Pollution Prevention), and 29 CFR 1910.106 (Occupational Safety and Health Regulations) and industry standards (such as API 653 and API 570) contain a number of requirements related to AST construction and operation. Many of those federal requirements are similar in their purpose/effect to the requirements envisioned by the State's Pollution Prevention Law and Oil Discharge Contingency Plan mandates. Every attempt has been made to make the requirements of the State's aboveground storage tank regulations consistent with requirements already contained in those federal regulations and industry standards.

## Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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The regulations need to be revised to incorporate new performance standards for certain aboveground storage tanks located in the City of Fairfax as mandated by actions taken by the 2011 General Assembly (CH 884 of the 2011 Acts of Assembly). State law requires certain aboveground storage tanks located in the City of Fairfax to meet new performance standards by July 1, 2021. Other changes will align Virginia's regulatory requirements with federal requirements and current industry standards. Updating these regulations to be consistent with current federal requirements and current industry standards will require the most up to date and protective standards to be met in Virginia, and will be more protective of the health, safety, and welfare of citizens.

## Substance

*Please briefly identify and explain the new substantive provisions (for new regulations), the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

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A new section, Section 145 - Performance standards for aboveground storage tanks located in the City of Fairfax, is being added to the regulations to address requirements for ASTs located in the City of Fairfax. These standards are required by state law to be met by July 1, 2021. Aboveground storage tanks with an aggregate capacity of million gallons or more that are located in the City of Fairfax that were in existence prior to January 29, 1992 are required to meet the new performance standards. Section 145 addresses the requirements for strength testing of tanks, requirements for release prevention barriers, and requires upgraded tanks to meet applicable standards of the Uniform Statewide Building Code.

The regulations are also being revised to remove the requirement for registration fees to be paid. Registration fees range from \$25 to \$100 per operator. Fees are being retained for the review of Oil Discharge Contingency Plans (ODCP) which range from \$718 to \$3,353. Removing the requirement for registration fees to be paid will allow for program staff to dedicate more time on activities such as facility inspections and reviewing contingency plans instead of registration fee issues.

Since many years have passed since the regulations were last amended, the agency is revising the regulations to address common questions the agency receives concerning these regulations. For example, the agency often receives questions concerning the applicability of the regulations. The agency is proposing to revise the regulations to clarify how the aggregate storage capacity of a facility is calculated. The agency is also reorganizing the regulatory section that discusses the pollution prevention standards that facilities must comply with. Reorganizing this regulatory section will remove duplicative requirements in the regulations, and make the pollution prevention requirement section more concise and easier to understand.

The agency is also updating the regulations to mention the most recent industry standards in the regulations. Industry standards are continuously reviewed and updated as technology advances. Depending upon the size and type of the aboveground storage tank, different industry standards apply to the maintenance and inspection of the tanks. The regulations will now mention the most recent industry standards.

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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The public will benefit from the revisions being made to the regulations. The regulations will now include the most recent industry standards which will make the regulations consistent with current industry practices. Making the regulations consistent with current industry practices will make it easier for the regulated community to comply with Virginia's regulations. This change will also make it easier for the Commonwealth to oversee this regulatory program since there will no longer be a difference between regulatory requirements and current industry practices. Additionally the regulations have been revised to include current industry practices for both site built (large tanks) and shop built tanks (smaller tanks).

The amendment also removes the requirement for registration fees to be paid when facilities register aboveground storage tanks. Removing this requirement will benefit both the regulated community and the agency. The agency will be able to devote resources previously used to track payments of registration fees (\$25-\$100) to verifying the ASTs are operated and maintained in a manner that is protective of human health and the environment.

The regulatory action poses no disadvantages to the public or the Commonwealth.

This regulatory amendment will assist facilities located in the City of Fairfax that are required to have their ASTs meet performance standards by July 1, 2021 by providing these facilities with certainty concerning the standards they will be required to meet. These facilities need time to arrange for tanks to be emptied, upgraded, and retested before being brought back into service. Due to the nature of the terminal in Fairfax, the four facilities at the terminal will need to coordinate the upgrading of tanks to ensure that capacity is available to handle pipeline deliveries and to prevent the disruption of petroleum deliveries to consumers.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There is no direct mandate for aboveground storage tank regulations in federal law; however, federal regulations such as 40 CFR Part 112 (Oil Pollution Prevention), and 29 CFR 1910.106 (Occupational Safety and Health Regulations) and industry standards (such as API 653 and API 570) contain a number of requirements related to AST construction and operation. Many of those federal requirements are similar in their purpose/effect to the requirements envisioned by the State's Pollution Prevention Law and Oil Discharge Contingency Plan mandates. Every attempt has been made to make the requirements of the State's aboveground storage tank regulations consistent with requirements already contained in those federal regulations and industry standards.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

§62.1-44.34:15.1 contains specific requirements ASTs located in the City of Fairfax must meet. The statute specifically states:

"4. For aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater existing prior to January 29, 1992, and located in the City of Fairfax, the Board shall establish performance standards for operators to bring aboveground storage tanks into substantial conformance with regulations adopted in accordance with subdivision 5. Operators shall meet such performance standards no later than July 1, 2021."

The agency established a regulatory advisory panel (RAP) to assist with developing the revisions to the regulation. The RAP membership included representatives of the impacted facilities located in the City of Fairfax, the City of Fairfax, and members of the public representing the communities surrounding the terminal in the City of Fairfax. The RAP reached consensus on the proposed language concerning the requirements for the ASTs in the City of Fairfax.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal, the impacts on the regulated community and the impacts of the regulation on farm or forest land preservation.*

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal, the potential impacts of this regulatory proposal and any impacts of the regulation on farm and forest land preservation. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so at the public hearing or by mail, email or fax to Ms. Melissa Porterfield, P.O. Box 1105, Richmond, VA 23218, telephone (804) 694-4238, FAX (804) 698-4346 or email [melissa.porterfield@deg.virginia.gov](mailto:melissa.porterfield@deg.virginia.gov). Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at [www.townhall.virginia.gov](http://www.townhall.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the comment period.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and in the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>Operating costs for the Aboveground Storage Tank program in FY2011 were \$444,462. The proposed regulation would remove the requirement for registration fees to be paid. In FY2010, \$17,125 was collected in registration fees. In FY2011, \$14,225 was collected in registration fees. The majority of program operating funds are provided by the Virginia Petroleum Storage Tank Fund, not registration fees. The Virginia Petroleum Storage Tank Fund receives its revenue from a fee imposed on petroleum products sold in Virginia. The Virginia Petroleum Storage Tank Fund is also</p>
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	<p>responsible for reimbursing costs associated with cleaning up spills of petroleum products. It is not anticipated that the regulatory proposal will increase the cost to the state to operate the AST program.</p>
<p><b>Projected cost of the new regulations or changes to existing regulations on localities</b></p>	<p>The new regulations propose removing the registration fee requirement. This would reduce the costs to all regulated entities. Any locality required to register an AST would no longer be required to pay the applicable registration fee which ranges from \$25 to \$100.</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations</b></p>	<p>The regulations require aboveground storage tanks with capacities of 660 gallons of oil or greater to register with the department. Both localities and businesses are examples of potential entities that own aboveground storage tanks with capacities of greater than 660 gallons of oil.</p>
<p><b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>At the end of FY2011, there were 10,670 active registered ASTs in Virginia. These ASTs were located at 3,654 facilities within the state. It is difficult to identify which of these facilities meet the definition of a small business entity. There were 1903 facilities that only have one AST registered, and it is assumed that most small businesses will only have one registered AST.</p>
<p><b>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and do include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p>	<p>The regulatory proposal would reduce costs to most of the regulated community. The proposal removes the registration fees which can range from \$25 to \$100. The regulations are also including some additional flexibility concerning daily and weekly inspections. These inspections will be required to be conducted at a minimum every 14 days, instead of daily or weekly when normal operations are not occurring. This will reduce compliance costs to the regulated community associated with conducting these inspections. The regulations are also being amended to include additional variances by regulation that would extend the time between inspections if certain criteria are met. This would reduce the number of inspections that are required to be conducted and would also allow the regulated community more regulatory flexibility without having to petition the board for a variance. The regulated community would not have to pay costs associated with preparing a variance petition.</p> <p>The regulations also include additional variances by regulation from inventory control and testing for significant variation if certain criteria are met. As required by state law, facilities located in the City of Fairfax will be required to meet certain performance standards by July 1, 2021. There are four facilities located in the City of Fairfax that are subject to these requirements. There are approximately 56 tanks at these facilities; however some tanks have previously been upgraded and</p>

	<p>some are not required to be upgraded. The agency estimates that there are 17 tanks that may need to be upgraded as a result to changes in state law that have been incorporated into this regulatory amendment. One industry representative estimated the cost to upgrade an AST (2,100,000 - 3,360,000 gallons) is \$600,000.</p>
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>The regulation is being revised to include more regulatory flexibility for the regulated community. As all ASTs are not the same, and are operated in different manners, the regulations are being amended to address these differences. Variances by regulation from inspection frequency requirements for ASTs with additional measures that provide additional protection to the environment to contain spills are being included in the regulations. This encourages the use of additional measures to contain spills instead of requiring visual inspections to be conducted. Removing the registration fee requirement from the regulation will allow department staff to spend more time in the field conducting sections vs. reviewing paperwork to determine if the appropriate registration fees (\$25-\$100) have been paid. This allows the agency to focus resources on conducting inspections of ASTs instead of administrative tasks related to collecting fees.</p>

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

Throughout the development of the proposed regulation, the agency worked with stakeholders that offered numerous suggestions for changing the regulations. The proposed changes to the regulations include additional flexibility for the regulated community while continuing to be protective of human health and the environment. For example, additional variances by regulation are being included in the regulations that may allow some facilities to not conduct inventory control or testing for significant variation. Other tanks may also reduce their inspection frequencies if the tanks have additional measures in place to contain a spill.

In addition to these changes, the regulations are being revised to no longer require registration fees to be submitted to the agency. This change will benefit all facilities. Small businesses will benefit from these changes from reductions in the compliance costs associated with owning or operating an AST.

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

During the development of the proposal the agency considered alternative regulatory methods that would reduce the regulatory burden on the regulated community while continuing to be protective of human health and the environment. The proposal includes reduced requirements for inventory control and testing for significant variation if certain conditions are met. Additionally, the regulations are revising the procedure for conducting inventory control and testing for significant variation to simplify these requirements for the regulated community. The revised regulation will only require temperature conversions to be conducted if there is a significant variation in the inventory in the AST instead of requiring this calculation to be performed with every inventory reading.

Small businesses are more likely to have smaller capacity ASTs that are purchased from manufacturers and delivered to them fully constructed. These tanks are commonly referred to as shop built tanks. The regulations are being revised to include more references to industry standards for shop built tanks.

The proposed regulation provides regulatory flexibility for all regulated entities, including small businesses.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Naval Regional Env. Coordinator for EPA Region III- on behalf of Department of Defense	9VAC25-91-30(A)(14) Comment- Clarify/define whether petroleum storage tanks permanently attached to emergency generators (e.g. belly tanks) are classified as 'oil filled equipment'	The agency has included language in the regulation to clarify which tanks are excluded from the regulations. (See 9VAC25-91-30 A 15.)
Naval Regional Env. Coordinator for EPA Region III- on behalf of Department of Defense	9VAC25-91-120 Comment- Specify time limits for when Temporary and Permanent AST Closures must occur.	The International Fire Code currently addresses these requirements and regulated entities should be following these requirements which are overseen by local officials. The regulations have not been revised in this area since it is already addressed by another standard.
Naval Regional Env. Coordinator for EPA Region III- on behalf of Department of Defense	9VAC25-91-130(A)(6) Comment- Create a new section that solely and concisely defines all AST equipment requirements. All required equipment should be consistent with and at least as stringent as 40CFR 112, including	The agency has re-organized section 130 to make it clearer which requirements are required to be met by different size facilities. Secondary containment requirements have also been clarified further in section 130 of the regulations.

	secondary containment requirements per 40CFR 112.8 (c)2.	
Naval Regional Env. Coordinator for EPA Region III- on behalf of Department of Defense	9VAC25-91-130(A)(7) and (B)(5) Comment- Request Visual Daily and Weekly AST Inspection frequency change to monthly inspections to reflect inspection frequency in 40CFR 112/ industry standards.	The agency has revised the frequency of the visual daily and weekly inspections. The regulations are being revised to state that the daily inspections need to be conducted on days of normal operation, but no less than ever 14 days. The weekly inspections need to be conducted each week in which normal operation occurs, but no less than every 14 days. The daily and weekly inspections are intended to ensure the AST systems are being maintained and are not identical to the requirements of the Steel Tank Institute's STI-SP001 standard. The agency has also added an additional variance by regulation to the regulation that allows daily and weekly inspections for ASTs that meet certain criteria to be conducted every 31 days instead of daily or weekly.
Naval Regional Env. Coordinator for EPA Region III- on behalf of Department of Defense	9VAC25-91-130(A)(8) Comment- Specify minimum training standards for facility training.	The current regulations include a list of items an individual performing daily and weekly inspections must be trained to conduct. As each facility is unique, the agency does not believe the regulations should require a specific training program offered by a specific entity to be used to train facility staff should be required. Facilities may choose to provide training in additional areas other than those listed in the regulations. No changes have been made to the regulations.
Naval Regional Env. Coordinator for EPA Region III- on behalf of Department of Defense	Incorporate, by reference, other Virginia tank documents, such as VDEQ Storage Tank Program Technical Manual and the Storage Tank Program Compliance Manual.	The regulations are being revised to include the most recent versions of industry standards and applicable codes and regulations. Agency technical and compliance manuals provide assistance to the regulated community with understanding and complying with statutory and regulatory requirements. Guidance documents are not adopted by the board and are subject to revision without board approval. These documents are listed separately due to the manner in which they are created and their intended use. These documents are made available on the agency website and on the Townhall website as guidance documents and are not included in the regulations.
Mike Ward, Virginia Petroleum Council	Focus change to the regulations on the Fairfax facilities. Any additional changes should be limited to areas such as technical, minor, publication references, recordkeeping, fee updates, and housekeeping language.	The agency focused the RAP on revising the regulations to address the Fairfax facilities first, and then addressed other changes to the regulations.
Mike Ward, Virginia	Urges the Board to avoid proposing the application of any new	The proposed revisions to the regulations do not propose any new performance standards

Petroleum Council	amendments to tank performance standards, which may be developed to specifically address the Fairfax City location, to other tanks in the Commonwealth.	for tanks outside of the City of Fairfax. Clarifications were made to the regulations to assist the regulated community with understanding the requirements of the regulations.
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**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This regulation does not have a direct impact on the institution of the family and family stability.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please detail the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences
10	10	Definitions	A definition of elevated tank is being added to the regulations. This definition is needed since it is a term that is being used in a new section (section 145) of the regulations.
20	20	Applicability	This section clarifies which oil capacities are included when calculating the aggregate storage capacity of the facility.
30	30	Exclusions	An additional exclusion is being described in the regulations to clarify ASTs that are excluded from the regulations. The regulations have excluded ASTs that are

			part of machinery from the regulations, and the regulations are being revised to further describe the exclusion. This exclusion deals with ASTs that are integral parts of equipment or machinery.
40	40	Compliance Dates	Compliance dates have been revised to incorporate the effective date of the last revision of the regulations.
50	50	Statement of Purpose	The term board is being replaced with the term department since annual reports are submitted to the department.
60	60	Administrative fees	Registration fees will no longer be charged. Fees will still be required for review of Oil Discharge Contingency Plans (ODCP). The regulation clarifies the different facility size categories and the applicable application fee. The agency's address has been revised.
70	70	<del>Notices</del> Correspondence to the Department of Environmental Quality	The agency's address has been revised. The section title has been revised to more accurately reflect the requirements of the section. The section provides details to the regulated community concerning where they should send different correspondence- either the central office or the regional office.
90	90	Evaluation of chapter	This section is being removed since it is no longer applicable. Periodic reviews of the regulations are detailed in a Governor's Executive order.
100	100	Registration requirements	The section of the regulation clarifies when a registration form is required to be submitted.
120	120	Aboveground storage tank closure	Compliance dates have been revised to incorporate the effective date of the last revision of the regulations. The term "board" is replacing the term "department" in this section to use terminology consistent with statutory requirements. The section has also been revised to allow for the use of approvable leak detection systems to be used instead of requiring soil sampling.
130	130	Pollution prevention standards and procedures	This section has been reorganized and removes redundant requirements from the regulations. Previously this section listed requirements each category of facilities was required to meet separately. The section has been reorganized to list all of the requirements ASTs with an aggregate storage capacity of 25,000 gallons of oil or more must meet first. Additional requirements facilities with a capacity of 1 million gallons of oil or more must meet are listed following the requirements for

			<p>facilities with an aggregate storage capacity of 25,000 gallons of oil. In addition to these changes, current industry standards have been mentioned in the regulations.</p> <p><i>Inventory Control</i> Changes have been made to the inventory control and testing for significant variation requirements. Requirements for refineries have been placed after the requirements for facilities. Facilities are no longer required to reconcile physical measurements every time a stored amount is recorded. If a significant variation exists for two consecutive reconciliation periods, the facility operator is then required to reconcile physical measurements. This will reduce the recordkeeping requirements for facilities.</p> <p><i>Secondary Containment</i> Clarifications have been made to the secondary containment requirements. The regulations specify the board's expectations for secondary containment that have been implemented though department policy. The PE certification is described in the regulations. Additionally, the PE certification may include qualifications, which the board may choose to accept. This will provide more flexibility to the facility concerning requirements for secondary containment.</p> <p><i>Safe fill and shutdown procedures</i> Safe fill and shutdown procedures have been clarified. Records of safe shutdown procedures are to be maintained.</p> <p><i>Pressure testing of piping</i> Pressure testing of piping requirements have been revised to incorporate the effective date of the last revision of the regulations.</p> <p><i>Visual daily and weekly inspections</i> Visual daily and weekly inspection requirements have been revised to incorporate the effective date of the last revision of the regulations. Facilities may also conduct daily inspections less frequently than daily if normal operations are not being conducted. Facilities may also conduct weekly inspections less than weekly if normal operations are not being conducted. Daily and weekly inspections need to be conducted at least once every 14 days. The regulations are also being clarified to state that when facility inspections identify problems, the problems</p>
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			<p>need to be corrected.</p> <p><i>Training requirements</i>                  Training requirements are being clarified. Training requirements have been revised to incorporate the effective date of the last revision of the regulations.</p> <p><i>Facilities with an aggregate capacity of 1 million gallons or more</i>                  In addition to the areas listed above, facilities with an aggregate capacity of 1 million gallons of oil or more must meet the following additional requirements-Formal inspections and reinspections, high level alarm for safe filling of tanks, and cathodic protection of piping. These requirements were previously in the regulations and are not new, but have been grouped into their own subsection of the regulations.</p>
140	140	Performance standards for aboveground storage tanks newly installed, retrofitted, or brought into use	<p>Compliance dates have been revised to incorporate a previous effective date of the regulations. References to NFPA 30 and BOCA are being replaced with a reference to the Uniform Statewide Building Code. The Uniform Statewide Building Code references many codes and standards, and is required to be followed in Virginia.</p>
	145	Performance standards for aboveground storage tanks located in the City of Fairfax	<p>This is a new section being added to the regulation to specifically address the AST facilities with an aggregate capacity of 1 million gallons of oil or greater located in the City of Fairfax. State law requires these tanks to meet certain performance standards by July 1, 2021. The section includes information concerning ASTs the section is applicable to, and includes the performance standards the ASTs must meet, including requirements for strength testing, and release prevention barriers.</p>
150	150	Recordkeeping	<p>This section has been clarified to state inspection records are to be kept.</p>
160	160	Variances to the requirements of part III (9VAC25-91-130 et seq.) of this chapter	<p>Additional variances by regulation are being added to the regulation. These additional variances allow for a facility to obtain a variance from the regulation without petitioning the board. The additional variances are common variances requested by the regulated community and granted by the board. Adding these variances to the regulations removes the requirement for a facility to petition the board for a variance if the conditions of the variance are being met. This reduces the regulatory burden on the regulated community as well as the department's resources.</p>
170	170	Contingency plan	<p>The regulation is being clarified to include</p>

		requirements and approval	the purpose of Oil Discharge Contingency Plans. The term board is being replaced with the term department to be consistent with statutory requirements. Statutory references are being updated. A deadline is also being included in the section for the board to receive notification of amendments to the Facility Response Plan (FRP) if the FRP is part of the ODCP.
180	180	Groundwater characterization study (GCS)	The term department is being replaced with the term board to be consistent with statutory requirements.
200	200	Reporting; GCS well monitoring report	The term board is being replaced with the term department since annual groundwater reports are required to be submitted to the department, not the board.
220	220	Resources available	This section is being revised to list the many resources that may assist the regulated community with maintaining compliance with the numerous codes and regulations ASTs are subject to. Depending on the size of the tank, and tank construction, there are many requirements or standards that may be applicable to the AST. Tanks are manufactured to meet certain standards that vary depending on the type of tank, the intended contents of the tank, and the location of the tank. This section acts as a list of resources the regulated community may wish to consult when selecting an AST to use, upgrading an existing tank, or inspecting tanks.
		Documents incorporated by reference	Some documents previously listed in section 220 are being incorporated by reference.

**Acronyms and Definitions**

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

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- API- American Petroleum Institute
  - AST- Aboveground Storage Tank
  - EPA- Environmental Protection Agency
  - FRP- Facility Response Plan
  - GCS- Groundwater Characterization Study
  - ODCP- Oil Discharge Contingency Plans
  - RAP- Regulatory Advisory Panel
  - RPB- Release Prevention Barrier
  - STI- Steel Tank Institute